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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/914,976	09/06/2001	Naotaka Tsunoda		7871

7590 04/20/2005

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EXAMINER

HARVEY, DIONNE

ART UNIT	PAPER NUMBER
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2643

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/914,976	Applicant(s) TSUNODA ET AL.	
	Examiner Dionne N Harvey	Art Unit 2643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/7/05 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                         |                                                                             |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.                                                |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.                                                             | 6) <input type="checkbox"/> Other: ____.                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Admitted Prior Art Figures 1 and 2 in view of Brito (US 5,136,639).

Regarding claim 1, Admitted Prior Art figures 1 & 2 teach a headphone device (a) comprising: an ear pad (e) worn on the exterior of the ear on the head (o) of a user and including a cushion (i) and a facing (j) that covers said cushion; and a housing (d) provided with a speaker unit and formed with a groove shaped fitting portion (h) adapted to hold a portion of said facing (l) for attaching said ear pad (e) to said housing (d) via the facing, wherein said ear pad is detachable from said housing (via l and h) and the facing is detachable from said housing (via l and h). The Applicant's Admitted Prior Art does not teach that the facing is removable and detachable from the cushion.

In figure 10, Brito (US 5,136,639) teaches an ear pad comprising a cushion (16) and covering (38). In lines 15-16 of the Abstract and in column 5, lines 52-65, Brito teaches that a variety of coverings (38) may be placed upon the cushion (16) for the purpose of facilitating easier cleaning of the covering, for the purpose of disposal and subsequent replacement with a new covering, OR for the purpose of exchange for

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another covering having a more distinctive or complementary appearance. In **column 5 lines 52-60**, specifically **lines 57-60**, Brito teaches that the covering for the cushion may be disposable, hence reading on "facing is detachable from said cushion" as claimed.

Furthermore, in **column 5, lines 60 to column 6, line 31**, Brito teaches a variety of mounting arrangements for attaching the cushion **(16)** and covering **(38)** to the telephone receiver. Brito teaches that the cushion w/ covering may be mounted by glue, double faced tape, a snapping arrangement, an elastic strap, belt-type buckle arrangement, Velcro- hook-n-loop fastening mechanism and more. More than one of the above mounting arrangements will facilitate a detachable mounting of the ear cushion **(16)** and covering **(38)** to the telephone receiver so as to permit the user to remove the covering **(38)** for disposal, cleaning or exchange, thereby reading on "said removable facing is detachable from said cushion", as claimed..

It would have been obvious for one of ordinary skill in the art at the time of the invention to combine the teachings of The Admitted Prior Art Figures 1-2 and Brito, thereby providing a replaceable facing, for the reasons previously mentioned.

Regarding claim 2, Figures 1-2 of the Admitted Prior Art teaches a headphone wherein an external shape of the cushion of said ear pad is circular.

### ***Response to Arguments***

Applicant's arguments filed 03/07/2005 have been fully considered but they are not persuasive.

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**Regarding the Applicant's argument that "Brito Fails To Show Or Suggest A Removable Facing Being Detachable From The Cushion Of The Ear pad."**

The Applicant cites *col. 5, line 50 to col. 6, line 24* of Brito, as proof that "... Brito fails to show or suggest a removable facing being detachable from the cushion of the ear pad."

However, in **column 5, lines 58-59**, Brito teaches that the covering **38** of **figure 10**, may be "disposable", inherently teaching that the covering is removable and detachable, thereby facilitating its' disposal. Note, that Brito does not specifically teach that the cushion is disposable, but he does clearly and specifically teach that the covering of the cushion may be disposed of, so as to enhance the cushion's sanitary usefulness. Also, see the 'Abstract' portion of the Brito reference, wherein Brito teaches "a variety of coverings can be placed over the cushion for aesthetic or functional purposes." The Examiner's rejection is therefore maintained.

**Conclusion**

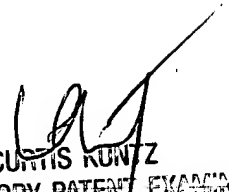
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dionne N Harvey whose telephone number is 571-272-7497. The examiner can normally be reached on 9-5:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on 571-272-7499. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dionne Harvey

  
CURTIS KUNTZ  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2643